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Message Text

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21
ACTION VO-03

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TO SECSTATE WASHDC 6747
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C O N F I D E N T I A L SANTIAGO 0546

EO 11652: GDS
TAGS: SREF, CVIS, CI
SUBJECT: PAROLE PROGRAM

REF: A) STATE 7410; B) STATE 11259

1. BOTH GENERAL OBSERVATIONS AND COMMENTS ON SPECIFIC CASES AS SET FORTH IN REFTELS ILLUSTRATE THE DIFFICULT JUDGMENTS REQUIRED OF OUR HARDWORKING CONSULAR AND INS OFFICERS HERE AND IN LIMA.

2. THE INITIAL PROBLEM, OF COURSE, IS THAT IN ANY GIVEN CASE THE REVIEWING OFFICER IS LIKELY TO BE FACED WITH TWO CONFLICTING SETS OF SLANTED "FACTS". ON ONE HAND GOC DECLARATIONS AND REPORTS MAY BE SLANTED AGAINST THE INDIVIDUAL TO JUSTIFY ACTIONS ALREADY TAKEN BY THE GOVERNMENT OR BECAUSE OF THE ANTI-JUNTA POLITICAL ORIENTATION OF THE DETAINEE. ON THE OTHER HAND, INDIVIDUAL PRISONERS, DESIRING NOTHING MORE HEARTILY THAN TO GET OUT OF JAIL, MAY SLANT THEIR STATEMENTS TO PUT THEIR PARTICULAR CASES IN THE BEST POSSIBLE LIGHT.

3. THE WOBBY "FACTUAL" BASE OF THE CASE IS COMPLICATED BY THE CRITERIA OF THE PAROLE PROGRAM ITSELF. INELIGIBILITY UNDER SECTIONS 212(A)(27)(28)(29) OF THE INA DOES NOT PRESENT MAJOR PROBLEMS. THE LAW IS SPECIFIC, THERE IS A GREAT DEAL OF ADDITIONAL GUIDANCE IN 9FAM, AND THE ADVISORY OPINION PROCEDURES ARE WELL ESTABLISHED. THE MATTER OF "UNDESIRABILITY",
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INTRODUCED BY THE PAROLE PROGRAM GUIDELINES, IS ANOTHER MATTER.

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THE CONCEPT IS VAGUE, THERE ARE NO ESTABLISHED GUIDELINES,
AND THE REVIEWING OFFICER MUST THEREFORE BE GUIDED BY HIS
COMMON SENSE AND THE IMPLICATION THAT "UNDESIRABILITY" REQUIRES
THE APPLICATION OF SOME RESTRICTIVE CRITERIA TO POTENTIAL
PAROLEES. THE DEPARTMENT MAY RECALL THAT THE EMBASSY ADDRESSED
THE PROBLEM IN 75 SANTIAGO 8146.

4. ALL OFFICERS CHARGED WITH CASE REVIEWING RESPONSIBILITY
WILL KEEP IN MIND PRE-SEPTEMBER 1973 SITUATION, SERIOUSNESS
OF ACTIVITY PURPORTEDLY CONDEMNING APPLICANT, AND APPLICANT'S
BROAD SOCIAL CONTEXT. AT SOME TIME WE MUST MAKE A JUDGMENT
ON HOW A PAROLEE WILL ACT ONCE HE ENTERS THE U.S. IS THE
APPPLICANT LIKELY TO ENGAGE IN POLITICAL ACTIVITY AGAINST
RECOGNIZED AND FRIENDLY GOVERNMENTS, OR THE USG ITSELF? IN THE
CONTEXT OF THE SPECIAL ATMOSPHERE CREATED BY REVELATIONS
OF U.S.-SPONSORED CLANDESTINE ACTIVITY IN CHILE AND THE
EXAGGERATED PERCEPTIONS ON THIS SUBJECT BY MANY OF THE
PAROLEES, REVIEWING OFFICERS MUST EVEN BE CONCERNED ABOUT THE
POSSIBILITY THAT A PERSON ADMITTED UNDER THIS PROGRAM MIGHT
COMMIT A VIOLENT ACT OF POLITICAL REVENGE IN THE U.S.

5. WITHIN THE CONFINES OF THESE DIFFICULT AND OFTEN CONFLICTING
CONSIDERATIONS, THE EMBASSY IS REVIEWING ALL CASES IN WHICH
THERE WAS A NEGATIVE RECOMMENDATION, INCLUDING THE SPECIFIC
CASES CITED IN REFTELS. OUR PRELIMINARY JUDGMENT IS THAT
SEVERAL OF THE CASES APPEAR TO BE APPROPRIATE FOR REVERSAL
OF NEGATIVE RULINGS BY INS AND CONSULAR OFFICERS. IN OTHER
CASES THE CONSULAR AND/OR THE INS AND CONSULAR OFFICER MAY
BELIEVE THAT THE NEGATIVE RECOMMENDATION SHOULD BE UPHELD.
A FEW CASES REQUIRE FURTHER REVIEW AND REINTERVIEWS. A REPORT
OF THE COMPLETED REVIEW OF EACH CASE WILL BE FORWARDED BY
CABLE.
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